IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE**

**and**

**THE HON'BLE MR JUSTICE C.V.RAMULU**

**WRIT APPEAL NO : 1436 of 2004**

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 09/09/2004 in WP NO : 15494 OF 2004 on the file of the High Court.)

Between:

1 C. Ramulu Goud, S/o. Balaiah Goud,
R/o. N B Nagar, Road No.12, Banjara Hills, Hyderabad.
2 P. Saibaba Goud, S/o. P. Ramulu Goud,
R/o. Chintalbasthi, Khairatabad, Hyderabad.

..... APPELLANTS

AND

1 Toddy Tappers Cooperative Society, Chintalbasthi, Hyderabad,
Rep. by Smt. Sugunamma
2 The Prohibition and Excise Superintendent, Hyderabad District at

Narayanguda, Hyderabad.

.....RESPONDENTS

Counsel for the Appellants: MR.C.V.MOHAN REDDY FOR
N.SRIDHAR REDDY
Counsel for Respondent No.1: MR.T.AMARNATH GOUD
Counsel for Respondent No.2: GOVERNMENT PLEADER FOR
PROHIBITION & EXCISE.

**The Court made the following Oral Order: (per Sri Devinder Gupta,CJ)**

We have heard the learned counsel for the appellants.

Appellants are the persons who were aggrieved by the order dated 9.9.2004 passed by the learned single judge in the impugned writ petition and are persons in-charge appointed for managing the affairs of the 1st respondent society.

Writ Petition was filed by the 1st respondent-Managing Committee of the society questioning the final orders of supercession passed under Section 34(1) of A.P. Cooperative Societies Act. It is stated that pursuant to earlier show cause notice dated 4.3.2004, reply was submitted by the Managing Committee and when the said show cause notice was under consideration fresh show cause notice was issued on 11.8.2004 to which reply was filed by the Managing Committee and in the reply, they also pointed out that in addition to this reply they reserved their right to file better explanation on furnishing copies of the complaints/representations etc., referred to in the show cause notice. It was also mentioned in the said explanation that since the records are in possession of the Excise authorities, they are not in a position to provide accurate information. It was absolutely necessary to peruse the record of the society in order to file an effective explanation. They also requested that before passing any orders against the interest of the Managing Committee, they must be afforded an opportunity of personal hearing and to peruse the records and explain in detail.

The learned single judge allowed the writ petition on the ground that despite specific request, records were not made available which were necessary and thus the order impugned in the writ petition was in violation of principles of natural justice.

Learned counsel for the appellants has taken us through the Second Show Cause

notice and the explanation of the respondent/writ petitioners. It was urged that it is not a case where there was absolute violation of principles of natural justice and show cause notice was served with details and reply thereto was filed which was duly considered by the authorities. Writ petitioners were trying to prolong the matter unnecessarily and production of records was not at all necessary. There is no prejudice caused to the writ petitioners.

We have duly considered the submissions and the nature of the allegations and have gone through the reply which was filed by the writ petitioners. There is no manner of doubt that in the absence of any records, it would not be possible for the writ petitioners to submit an effective explanation to the show cause notice. As a matter of fact, it affects the rights of the Managing Committee to continue to manage the affairs of the society and more over, appellants are only complainants and mere persons-in-charge and they are not otherwise elected persons to manage the affairs of the society and therefore they cannot contend that there is no violation of principles of natural justice. The learned single judge rightly came to the conclusion that non-supply of the records to the writ petitioners deprived them from filing a better explanation to the show cause notice and that would amount to violation of principles of natural justice.

There is no illegality in the impugned order of the learned single judge. The appeal is accordingly dismissed.

While dismissing the writ appeal, we will add to the direction issued by the learned single judge that after the writ petitioners are afforded an opportunity to peruse the records, they will be allowed a week's time to file their explanation and if such an explanation is filed before the competent authority, the competent authority will pass appropriate orders thereupon in accordance with law. No costs.

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DEVINDER GUPTA, CJ

Date: 16th September, 2004

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C.V.RAMULU,J

Pnb

To

1 The Prohibition and Excise Superintendent, Hyderabad District

at Narayanguda, Hyderabad.

2 Two C.Cs to the Government Pleader for Prohibition & Excise,

High Court of A.P., Hyderabad (OUT)

3 Two C.D. copies